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JAN - 4 2006

**CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

**BY _____
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Federal Defender
NED SMOCK, Bar #236238
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Attorney for Defendant
JONATHAN A. NOVAK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	No. Cr. 04-472 DFL
)	
Plaintiff,)	DEFENDANT'S REQUEST FOR
)	PERMISSION TO BE SENTENCED IN
v.)	ABSENTIA PURSUANT TO FED. R.
)	CRIM. P. 43(b)(2)
JONATHAN A. NOVAK,)	
)	Date: January 12, 2006
Defendant.)	Time: 9:00 A.M.
)	Judge: Hon. Peter A. Nowinski
_____)	

Defendant Jonathan A. Novak hereby requests that the Court permit sentencing to occur in his absence pursuant to Fed. R. Crim. P. 43(b)(2). Rule 43 provides that with the defendant's consent and the Court's permission, sentencing on a misdemeanor offense may occur in the defendant's absence.

Mr. Novak pled guilty on October 27, 2005 to a single count of 18 U.S.C. 228(a)(1), a misdemeanor. He lives in Glen Allen, Virginia. As explained in the probation report, Mr. Novak is currently seeking full-time employment. Among other things, he has an application pending

1 with the U.S. Postal Service. In addition, Mr. Novak owes a great deal
2 of restitution. He is sending a check for \$600 - earned in a recent
3 short-term job - to Butte County to begin paying the restitution owed.
4 Mr. Novak does not have funds available to pay for round trip airfare
5 and lodging to come to the sentencing hearing on January 12, 2006. In
6 addition, he needs to focus his time and attention on finding
7 employment.

8 Defense counsel has consulted with counsel for the United States,
9 Laura Ferris. The government has no objection to sentencing in
10 absentia pursuant to Rule 43. Attached hereto is a waiver of
11 appearance from Mr. Novak. Accordingly, the defense requests
12 permission to proceed with sentencing in Mr. Novak's absence.

13
14 Dated: December 29, 2005

Respectfully submitted,

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16 QUIN DENVIR
Federal Defender

17
18 /s/ Ned Smock
NED SMOCK
Staff Attorney
Attorney for Defendant
JONATHAN A. NOVAK

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